

REMARKS

The Interview.

5 Examiner Rhee and SPE Ryan are thanked for their careful and courteous attention at the interview on May 11, 2006. The Interview Summary is correct, except that it does not refer to the presence of SPE Ryan. Further details of the substance of the interview are given in the discussion below of the Office Action mailed February 23, 2006.

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The Amendments

As agreed at the Interview, the specification has been amended to remove the word "optionally". The amended specification now states the alternatives previously
15 encompassed by the "optionally" wording as different embodiments of the invention.

The Objections under 35 USC 132(a).

Applicants respectfully traverse the objections under 35 USC 132(a). There are
20 three objections, namely: --

- 1) The original disclosure does not support the statement that the membrane optionally has a P10 ratio, measured at pressure of 0.035 kg per square centimeter, over at least one 10° C. range between -5 and 15°C, of at least 1.3.
- 2) The original disclosure does not support the statement that the control
25 sections may provide "at least the principal pathways and optionally" substantially the only pathways for oxygen and carbon dioxide to enter or leave the packaging atmosphere.
- 3) "...deleting the limitation 'has a P10 ratio, over at least one 10°C range between 5 and 15°C of at least 1.3' fails to support independent claim 1 that does
30 comprise of the limitation".

These three objections are set out in full in the Office Action mailed September 8, 2005, and repeated in the Office Action mailed February 23, 2006. It was agreed at the hearing that these objections would be withdrawn, subject to amendment of the specification to remove the word "optionally", having regard to, in particular,

- 5 (a) Page 10, lines 10-15, of the specification as filed, which states (emphasis added)

As discussed above, the properties of the membranes of the invention depend upon a number of factors, including the base film, the coating polymer, the coating composition, and the amount of coating composition applied to the base film. The membrane **preferably** has a P_{10} ratio, over at least one 10°C range between -5 and 15°C, preferably over at least one 10°C range between 0°C and 15°C, of at least 1.3, preferably at least 2, particularly at least 2.5, especially at least 2.6.

and

- 15 (b) Page 2, lines 22-25, of the specification as filed, which states (emphasis added)

As further discussed below, the gas-permeable membranes of this invention are generally used as **control sections which provide the sole, or at least the principal, pathway for gases to enter or leave a sealed container containing a respiring material.**

The Rejections under 35 USC 112

- Applicant respectfully traverses the rejection of claims 36-77 under 35 USC 112, first paragraph, as

based on a disclosure which is not enabling the deletion of a P_{10} ratio, over at least one 10°C range between 5 and 15°C of at least 1.3 which is critical or essential to the practice of the invention, but not included in the claims is not enabled by the disclosure. See *In re Mayhew*, 527 F.2 D 122 9, 188 USPQ 356 (CCPA 9776. The original specification has no support for the deletion of a P_{10} ratio of at least one 10°C range between 5 and 15°C of at least 1.3."

It was agreed at the interview that this rejection would be withdrawn, having regard in particular to the disclosure in passage (1) quoted above, which made it clear that there was support in the specification as filed for the claims; the fact that every gas-
5 permeable membrane inherently has a P_{10} ratio over any specified 10°C range" (that P_{10} ratio being, depending upon the coating polymer and the temperature at which the measurement is made, less than 1, about 1, or substantially greater than 1); and the disclosure of the specification generally, which makes it clear that the claims comply with the requirements of 35 USC 112.

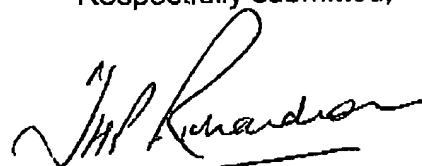
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CONCLUSION

It is believed that this application is now in condition for allowance, and such action at an early date is earnestly requested. If, however, there are any outstanding
15 issues that could usefully be discussed by telephone, the Examiner is asked to call the undersigned.

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Respectfully submitted,



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